

AMENDED IN ASSEMBLY APRIL 29, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 527

Introduced by Assembly Member Dodd

February 23, 2015

An act to add Section 25503.40 to the Business and Professions Code, relating to alcoholic beverages.

LEGISLATIVE COUNSEL'S DIGEST

AB 527, as amended, Dodd. Alcoholic beverage control: tied-house restrictions: advertising.

Existing law generally restricts certain alcoholic beverage licensees, including manufacturers and winegrowers, from paying, crediting, or compensating a retailer for advertising in connection with the advertising and sale of alcoholic beverages. Existing law expressly authorizes a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to sponsor events promoted by or purchase advertising space and time from, or on behalf of, a live entertainment marketing company that is a wholly owned subsidiary of a live entertainment company that has its principal place of business in the County of Los Angeles, as provided.

This bill would expressly authorize a beer manufacturer, *as described*, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to sponsor events promoted by or purchase advertising space and time from, or on behalf of, a live entertainment

marketing company that is a wholly owned subsidiary of a live entertainment company that has its principal place of business in the County of Napa, under specified conditions. ~~This~~ *The* bill would also make a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent who, through coercion or other illegal means, induces the holder of a wholesaler's license to fulfill those contractual obligations entered into pursuant to these provisions guilty of a misdemeanor. ~~This~~ *The* bill would additionally make an on-sale retail licensee, as described, who solicits or coerces a holder of a wholesaler's license to solicit a beer manufacturer, holder of a winegrower's license, winegrower's agent, holder of an importer's general license, distilled spirits manufacturer, holder of a distilled spirits rectifiers general license, or a distilled spirits manufacturer's agent to purchase advertising time or space pursuant to these provisions guilty of a misdemeanor.

By creating a new crime, this bill would impose a state-mandated local program.

This bill would make legislative findings and declarations as to the necessity of a special statute for the County of Napa.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25503.40 is added to the Business and
- 2 Professions Code, to read:
- 3 25503.40. (a) Notwithstanding any other law, a beer
- 4 manufacturer, holder of a winegrower's license, winegrower's
- 5 agent, holder of an importer's general license, distilled spirits
- 6 manufacturer, holder of a distilled spirits rectifiers general license,
- 7 or a distilled spirits manufacturer's agent may sponsor events
- 8 promoted by, and may purchase advertising space and time from,

1 or on behalf of, a live entertainment marketing company subject
2 to all of the following conditions:

3 (1) (A) The live entertainment marketing company is a wholly
4 owned subsidiary of a live entertainment company that has its
5 principal place of business in the County of Napa, that may also
6 own interests, directly or indirectly, in retail licenses.

7 (B) *The venue of the event is located within the County of Napa,*
8 *expected attendance of the event is at least 5,000 people per day,*
9 *and no more than three of these events are held in the County of*
10 *Napa each year.*

11 (2) The sponsorship and the advertising space or time is
12 purchased only in connection with the promotion of live artistic,
13 musical, sports, food, beverage, culinary, lifestyle, or other cultural
14 entertainment events at entertainment facilities, parks, fairgrounds,
15 auditoriums, arenas, or other areas or venues that are designed for,
16 or set up to be, lawfully used for live artistic, musical, sports, food,
17 beverage, culinary, lifestyle, or other cultural entertainment events.

18 (3) (A) Any on-sale licensee operating at a venue where live
19 artistic, musical, sports, food, beverage, culinary, lifestyle, or other
20 cultural entertainment events are performed pursuant to a
21 sponsorship described in this section or where advertising is
22 purchased as described in this section shall serve other brands of
23 beer, distilled spirits, and wine in addition to any brand
24 manufactured or distributed by the sponsoring or advertising beer
25 manufacturer, holder of a winegrower's license, winegrower's
26 agent, holder of an importer's general license, distilled spirits
27 manufacturer, holder of a distilled spirits rectifiers general license,
28 or a distilled spirits manufacturer's agent. ~~If, however, there is~~
29 ~~brand diversity by virtue of the existence of multiple sponsors~~
30 ~~within the same sponsorship category, this subparagraph shall not~~
31 ~~apply.~~

32 (B) Any on-sale retail licensee owned by the live entertainment
33 company described in paragraph (1) shall serve other brands of
34 beer, distilled spirits, and wine in addition to any brand
35 manufactured or distributed by the sponsoring or advertising beer
36 manufacturer, holder of a winegrower's license, winegrower's
37 agent, holder of an importer's general license, distilled spirits
38 manufacturer, holder of a distilled spirits rectifiers general license,
39 or a distilled spirits manufacturer's agent. ~~If, however, there is~~
40 ~~brand diversity by virtue of the existence of multiple sponsors~~

1 ~~within the same sponsorship category, this subparagraph shall not~~
2 ~~apply.~~

3 (4) (A) Advertising space or time purchased pursuant to this
4 section shall not be placed in any on-sale licensed premises where
5 the on-sale retail licensee is owned *directly or indirectly* by the
6 live entertainment company, or any of its subsidiaries, described
7 in paragraph (1).

8 (B) Sponsorship provided pursuant to this section shall not be
9 allowed if the event or activity is held at or in any on-sale licensed
10 premises where the on-sale retail licensee is owned by the live
11 entertainment company, or any of its subsidiaries, described in
12 paragraph (1).

13 (5) An agreement for the sponsorship of, or for the purchase of
14 advertising space and time during, a live artistic, musical, sports,
15 food, beverage, culinary, lifestyle, or other cultural entertainment
16 event shall not be conditioned directly or indirectly, in any way,
17 on the purchase, sale, or distribution of any alcoholic beverage
18 manufactured or distributed by the advertising or sponsoring beer
19 manufacturer, holder of a winegrower's license, winegrower's
20 agent, holder of an importer's general license, distilled spirits
21 manufacturer, holder of a distilled spirits rectifiers general license,
22 or a distilled spirits manufacturer's agent by the live entertainment
23 company described in paragraph (1) or by any on-sale retail
24 licensee that is owned by the live entertainment company.

25 (b) Any sponsorship of events or purchase of advertising space
26 or time conducted pursuant to subdivision (a) shall be conducted
27 pursuant to a written contract entered into by the beer manufacturer,
28 holder of a winegrower's license, winegrower's agent, holder of
29 an importer's general license, distilled spirits manufacturer, holder
30 of a distilled spirits rectifiers general license, or a distilled spirits
31 manufacturer's agent and the live entertainment marketing
32 company.

33 (c) Any beer manufacturer, holder of a winegrower's license,
34 winegrower's agent, holder of an importer's general license,
35 distilled spirits manufacturer, holder of a distilled spirits rectifiers
36 general license, or a distilled spirits manufacturer's agent who,
37 through coercion or other illegal means, induces, directly or
38 indirectly, a holder of a wholesaler's license to fulfill those
39 contractual obligations entered into pursuant to subdivision (a)
40 shall be guilty of a misdemeanor and shall be punished by

1 imprisonment in the county jail not exceeding six months, or by
2 a fine in an amount equal to the entire value of the advertising
3 space or time involved in the contract, whichever is greater, plus
4 ten thousand dollars (\$10,000), or by both imprisonment and fine.
5 The person shall also be subject to license revocation pursuant to
6 Section 24200.

7 (d) Any on-sale retail licensee who, directly or indirectly, solicits
8 or coerces a holder of a wholesaler's license to solicit a beer
9 manufacturer, holder of a winegrower's license, winegrower's
10 agent, holder of an importer's general license, distilled spirits
11 manufacturer, holder of a distilled spirits rectifiers general license,
12 or a distilled spirits manufacturer's agent to purchase advertising
13 time or space pursuant to subdivision (a) shall be guilty of a
14 misdemeanor and shall be punished by imprisonment in the county
15 jail not exceeding six months, or by a fine in an amount equal to
16 the entire value of the advertising space or time involved in the
17 contract, whichever is greater, plus ten thousand dollars (\$10,000),
18 or by both imprisonment and fine. The person shall also be subject
19 to license revocation pursuant to Section 24200.

20 (e) For purposes of this section, "beer manufacturer" includes
21 a holder of a beer manufacturer's license, a holder of an out-of-state
22 beer manufacturer's certificate, ~~a holder of a beer and wine~~
23 ~~wholesaler's license~~, or a holder of a beer and wine importer's
24 general license.

25 (f) Nothing in this section shall authorize the purchasing of
26 advertising space or time directly from, or on behalf of, any on-sale
27 *retail* licensee.

28 (g) Nothing in this section shall authorize a beer manufacturer,
29 holder of a winegrower's license, winegrower's agent, holder of
30 an importer's general license, distilled spirits manufacturer, holder
31 of a distilled spirits rectifiers general license, or a distilled spirits
32 manufacturer's agent to furnish, give, or lend anything of value to
33 an on-sale retail licensee described in subdivision (a) except as
34 expressly authorized by this section or any other provision of this
35 division.

36 (h) *The Legislature finds and declares both of the following:*

37 (1) *It is necessary and proper to require a separation between*
38 *manufacturing interests, wholesale interests, and retail interests*
39 *in the production and distribution of alcoholic beverages in order*
40 *to prevent suppliers from dominating local markets through vertical*

1 *integration and to prevent excessive sales of alcoholic beverages*
2 *produced by overly aggressive marketing techniques.*

3 *(2) Any exception established by the Legislature to the general*
4 *prohibition against tied interests shall be limited to the express*
5 *terms of the exception so as not to undermine the general*
6 *prohibition.*

7 SEC. 2. The Legislature finds and declares that a special law
8 is necessary and that a general law cannot be made applicable
9 within the meaning of Section 16 of Article IV of the California
10 Constitution because of the unique conditions located in the County
11 of Napa.

12 SEC. 3. No reimbursement is required by this act pursuant to
13 Section 6 of Article XIII B of the California Constitution because
14 the only costs that may be incurred by a local agency or school
15 district will be incurred because this act creates a new crime or
16 infraction, eliminates a crime or infraction, or changes the penalty
17 for a crime or infraction, within the meaning of Section 17556 of
18 the Government Code, or changes the definition of a crime within
19 the meaning of Section 6 of Article XIII B of the California
20 Constitution.